IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 62 OF 2006.

1(a) Shri Francisco Xavier Rose Almeida
son of late Inacio Manuel Paulo
Gregorio Almeida,
aged about 65 years,
occupation landlord,
and his wife,

1(b) Smt. Mafaldina Almeida,
daughter of Aleixo Fernandes,
major of age, both residents
of H. No. 38/1,
Novovado, Sernabatim,
Salcete, Goa.

2(a) Shri Vitorinho Joao Almeida,
son of late Inacio Manuel
Paulo Gregorio Almeida,
aged about 59 years,
occupation service,
and his wife,

2(b) Smt. Maria Felicidade Marcela
Almeida, daughter of
Constancio Rodrigues,
aged about 51 years, housewife,
both residents of Mumbai. .... Petitioners.

Versus

Shri Antonio Columban Wilson
das Dores Fernandes,
alias Wilson Fernandes,
married, son of Carlos Fernandes,
major in age, landlord,
resident of House No. 12,
Nagvado, Betalbatim,
Salcete, Goa. .... Respondent.

Shri S.D. Lotlikar, Senior Advocate with Shri M. D'Souza, Advocate for the Petitioners.

Shri C.A. Coutinho, Advocate for the Respondents.

CORAM: DR. S. RADHAKRISHNANA, J.

DATE: 13th SEPTEMBER, 2006.

ORAL JUDGMENT:

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

2. Rule. Rule made returnable forthwith. By consent taken up for hearing.

3. After hearing the parties for some time, both the learned counsel for the petitioners and the respondent are agreeable for substituting the interlocutory order of the trial Court as well as the lower Appellate Court order in the following manner during the pendency of the suit :-

i) The learned counsel for the petitioners/defendants states that the petitioners/defendants will not enter the red shaded portion shown in the map at page 375 of the petition being Exh. “M” to the suit.

ii) The learned counsel for the respondent states that the respondent will not cut any of the trees in the red shaded portion shown in the said plan.

iii) Both the learned counsel for the petitioners and respondent state that both the parties will not raise any third party rights in the aforesaid red shaded portion as shown in the said plan.

4. Accordingly, both the interlocutory order of the Trial Court as well as the lower Appellate Court order stand substituted as above, during the pendency of the Suit.

5. Having regard to the facts and circumstances of the case, the learned Civil Judge Senior Division at Margao-in-charge of "D" Court is directed to dispose of Regular Civil Suit No. 256/99/D as expeditiously as possible, preferably within a period of six months from today. Time to carry out the amendment by the petitioners, by this Court's Order dated 17th August, 2006 in the trial court proceedings, is extended by a period of two weeks from today.

The Writ Petition stands disposed of accordingly. Rule is made absolute accordingly.

DR. S. RADHAKRISHNAN, J.

sl.